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## Letter dated 18 April 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Ethiopia to the United Nations addressed to the President of the Security Council

I feel obliged to write to you following the letter sent to you by the Permanent Representative of Eritrea on 15 April 2008 (S/2008/254). This fails to address the more pertinent facts of the current situation. It also deliberately twists the reality of Eritrean activity over the last few years, starting, most obviously, from the finding of the Eritrea-Ethiopia Claims Commission concerning the origin of the dispute: "The Respondent (Eritrea) violated Article 2, paragraph 4, of the Charter of the United Nations by resorting to armed force on May 12, 1998". The Commission also noted that Eritrea was liable to compensate Ethiopia for the damage caused by this violation of international law. Eritrea, in fact, invaded Ethiopia on 12 May 1998. This essential fact of Eritrean aggression should not be forgotten.

As you are aware, Ethiopia has fully accepted the delimitation decision of the Eritrea-Ethiopia Boundary Commission (EEBC). The President of EEBC himself underlined this point on 10 March 2006: "We have taken note of the fact that Ethiopia has accepted the delimitation decision ... it is a complete and unconditional acceptance, so there is no doubt that Ethiopia is willing to move on to the complete demarcation of the boundary". Far from Ethiopia interrupting the process or refusing to attend EEBC meetings, it was Eritrea which withdrew from involvement with EEBC. In a letter two days before an EEBC meeting planned for 15 June 2007, the Government of Eritrea said it was not prepared to continue participation in the demarcation process. The President of Eritrea followed this up two days later by formally withdrawing Eritrea from the process: "Although not new, we have learned a lot from the machinations set in motion by the United States Administration with heavy-handed intervention under the guise of 'expediting demarcation'. This and other similar illegal political interferences should not be tolerated anymore. In the event, I wish to inform you that we are not prepared to entertain such futile acts or continue our engagement".

Eritrea similarly rejected offers of facilitation by other parties to find a way round the deadlock, including suggestions from the witnesses to the Algiers Agreements, following their meeting in February 2006. The witnesses issued a peace initiative which included a number of proposals urging consideration of "the need for technical discussions with the support of a neutral facilitator to assist with the process of demarcation". As was quite obvious at the time, the intention was clearly not to undermine the EEBC delimitation decision but to revitalize the demarcation process. While Ethiopia fully concurred with this proposal, Eritrea

refused to consider any such possibility. Indeed, Eritrea has consistently acted to inhibit any moves to encourage settlement of the dispute and the restoration of relations with Ethiopia. Furthermore, it must be recalled that the witnesses at the same meeting emphasized that "the demarcation of the border cannot proceed unless UNMEE is allowed full freedom of movement throughout its area of operations".

Since then Eritrea has remained totally uncooperative towards any efforts from the United Nations Secretary-General, the Security Council or the African Union to try to resolve this dispute. Despite all evidence to the contrary, Eritrea continues to question Ethiopia's acceptance of the delimitation decision of EEBC. It seems apparent that Eritrea appears to have no interest in resolving the dispute legally and peacefully. Nowhere is this clearer than in the letter sent by the President of Eritrea to the President of EEBC on 5 September 2007, in which he rejects any talks, "secret meeting" or otherwise.

You are fully aware that Ethiopia has rejected the notion of "virtual demarcation" as inconsistent with the Algiers Agreement and the practice of EEBC itself and contrary to international law. Ethiopia was not alone in rejecting the Commission's approach. On 23 October 2007, Eritrea, in a letter to the President of the Security Council, said: "Eritrea's legal point of view is that the border should be demarcated by placing pillars on the ground". On 19 November 2007, the President of Eritrea said that "virtual demarcation" did not represent completion of the demarcation process, and he requested EEBC to persist until "the erection of pillars [could] bring the process to its natural conclusion". Eritrea, however, quickly changed its view once it became clear that Ethiopia rejected "virtual demarcation" as a process unrecognized by international law. Only a few days later on 30 November 2007, the President was claiming that "virtual demarcation" was as binding as any other EEBC decision. On the other hand, it should be recalled that the Security Council, in resolution 1798 (2008), demanded that the Parties: "take immediately concrete steps in order to complete the process launched by the Peace Agreement of 12 December 2000 (S/2000/1183) by enabling physical demarcation of the border, and urges them to normalize their relations".

Eritrea is in no position to criticize Ethiopia over failures to respect commitments to the Algiers Agreements. Eritrea has consistently violated the Agreement on Cessation of Hostilities over several years, through its incursions into the Temporary Security Zone and the restrictions on UNMEE beginning from 2004. It should be recalled that as early as 2005 the Security Council adopted resolution 1640 (2005), deeply deploring Eritrea's imposition of restrictions on the freedom of movement of UNMEE and demanding that Eritrea reverse these restrictions without preconditions. The Security Council then threatened to take measures under Article 41 of the Charter of the United Nations if Eritrea failed to comply. Eritrea failed to respond, and, indeed, intensified its violations of the Agreement on Cessation of Hostilities, taking numerous additional actions which eventually forced UNMEE to withdraw from Eritrea early this year.

Eritrea, in fact, has attempted a highly selective reading of the Algiers Agreements, alleging violations of international legality by Ethiopia, while attempting to ignore the fact that it has been openly and continuously violating the Agreement on Cessation of Hostilities, which provides the foundation for the entire peace process. It has even attempted to suggest that the presence of Eritrean troops in the Temporary Security Zone is not a violation of the Agreement. In fact, the

Security Council reaffirmed the continued validity of the Agreement earlier this year when reiterating its demands for Eritrea "to withdraw immediately all troops and heavy military equipment from the TSZ", in resolution 1798 (2008).

Ethiopia has made it clear on numerous occasions that it is fully committed to resolving this dispute legally and peacefully in accordance with international norms. The Security Council has made it clear that it is the primary responsibility of the two parties to resolve this situation. It is now obvious that the Security Council must take action to ensure that Eritrea complies with the provisions of the Agreement on Cessation of Hostilities and thereby protect the continuing viability of the Algiers Agreements to allow for a comprehensive settlement to be reached. Ethiopia also expects the Security Council to take punitive measures against Eritrea for the grave violations of the Agreement on Cessation of Hostilities. In Ethiopia's view this would necessitate the Security Council taking punitive measures against Eritrea as provided for in the Agreement on Cessation of Hostilities.

I would request you to have the present letter circulated as a document of the Security Council.

(*Signed*) Negash Kebret **Botora**
Ambassador
Chargé d' affaires a.i.